

Serial No. 10/046,953

William Kress Bodin

Page 10 of 15

**Section III:**  
**AMENDMENT UNDER 37 CFR §1.121 to the**  
**DRAWINGS**

No amendments or changes to the Drawings are proposed.

Serial No. 10/046,953

William Kress Bodin

Page 11 of 15

**Section IV:****AMENDMENT UNDER 37 CFR §1.121****REMARKS****Rejections under 35 U.S.C. §103*****Rejections of Claims 1 - 3, 10 - 12, 15, 19 - 21 and 23 - 24 over Zimmerman in view of Pryor in further view of Starner***

In the Office Action, claims Claims 1 - 3, 10 - 12, 15, 19 - 21 and 23 - 24 were rejected under 35 U.S.C. §103(a) as being unpatentable over Zimmerman (previously cited) in view of Pryor (previously cited) in further view of US Published Patent Application 2002/00761277 to Starner *et al.* (hereinafter "Pryor"). For the purposes of this reply, Applicant assumes that document number 2002/0071277 is the applied reference because 2002/00761277 does not exist, but 2002/0071277 (the "6" digit removed) does exist and is properly listed in the PTO-892 form.

As stated in the rationale for these rejections in the first (previous) Office Action dated 08/19/2006, Zimmerman fails to teach gesture recognition to provide signature information, so Pryor was employed to teach addition of a confirming degree of authenticity to a signature using gesture recognition. In the same Office Action of 08/19/2006, it was stated that Zimmerman in view of Pryor are silent as to teaching recognition of a gesture sequence in order to authorize a physical security action such as unlocking a door (pg. 5 of the Action). In this rationale, Kanevsky was employed to teach the physical security action including the suggestion or motivation to combine to control a physical security action (pg. 6).

In the first Office Action dated 08/19/2005, claims were rejected over Zimmerman in view of Pryor in further view of Kanevsky. According to the reasoning in the first Office Action, the suggestion or motivation to combine Kanevsky with the Zimmerman-Pryor subcombination was found in Kanevsky, not in Zimmerman or Pryor. Kanevsky, however, was disqualified as art because it was subject to common assignment with the present patent application. Through disqualification of Kanevsky as prior art, not only were the technical teachings of Kanevsky obviated, but the requisite suggestion or motivation to combine with a physical security action control were removed, as well.

In order, therefore, for the newly proposed Zimmerman-Pryor-Starner combination to render Applicant's claims unpatentable, Starner must teach the physical security action control

Serial No. 10/046,953

William Kress Bodin

Page 12 of 15

(e.g. unlocking a door), and Starnier must provide some suggestion or motivation to combine as proposed with Zimmerman and Pryor, whereas it is already established that Zimmerman and Pryor do not provide suggestion or motivation to combine in this manner.

Starnier discloses that requiring a user to be proximal or close to a user interface panel such as a wall panel is undesirable (emphasis added by Applicant):

[0005] An interface designed into a wall panel, the wall panel interface, generally requires a user to approach the location of the wall panel physically. A similar restriction occurs with phone interfaces. Furthermore, the phone interface comprise small buttons that render it difficult for a user to read and use the phone interface, especially a user who is elderly or has disabilities.

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[0007] Yoshiko Hara, CMOS Sensors Open Industry's Eyes to New Possibilities, EE Times, Jul. 24, 1998, and <http://www.Toshiba.com/news/9-80715.htm>, July 1998, illustrates a Toshiba motion processor. Each of the above references is incorporated by reference herein in its entirety. The Toshiba motion processor controls various electrical devices by recognizing gestures that a person makes. The Toshiba motion processor recognizes gestures by using a camera and Infrared light-emitting diodes. However, the camera and the infrared light-emitting diodes in the Toshiba motion processor are in a fixed location, thereby making it inconvenient, especially for an elderly or a disabled user, to use the Toshiba motion processor. The inconvenience to the user results from the limitation that the user has to physically be in front the camera and the Infrared light-emitting diodes, to input gestures into the system. Even if a user is not elderly or has no disability, it is inconvenient for the user to physically move in front of the camera each time the user wants to control an electrical device, such as, a television or a fan.

...

[0009] Thus, a need exists in the industry to overcome the above-mentioned inadequacies and deficiencies.

Serial No. 10/046,953

William Kress Bodin

Page 13 of 15

To solve these deficiencies in the art, Starner discloses that their gesturing device, image capturing device, and light sources are worn by the user, thereby eliminating the need of the user to approach a wall-mounted panel (emphasis added by Applicant):

[0024] The computer 104 preferably is located at the same location as the light-emitting device 102, the image-forming device 103, and the user 106. For instance, the computer 104 can be located in a pendant or a pin that comprises the light-emitting device 102 and the image-forming device 103, and the pendant or the pin can be placed on the user 106. The pendant can be around the user's 106 neck and the pin can be placed on his/her chest. Alternatively, the computer 104 can be coupled to the image-forming device 103 via a network such as a public service telephone network, integrated service digital network, or any other wired or wireless network.

Using a network, the image processor can be remotely located or co-located with the image capturing device and the light source (paras. [0024] and [0025]). The network interface is used to send the decoded command to another system via the network.

If Starner's gesturing device, image capturing device, and light sources were modified to be fixedly mounted on a controlled system or on a wall instead of being worn by the user, Starner's modified system would take on the same undesirable characteristics as described in their background of the art section. Starner, therefore, does not provide motivation to fixedly mount their system as described by Applicant, Zimmerman and Pryor:

[0059] The image-capturing system 100 of FIGS. 1-4 is easier to use than the known command-and-control interfaces such as the remote control, the portable touch screen, the wall panel interface, and the phone interface since it does not comprise small, cryptic labels and can move with the user 106 as shown in FIGS. 1-2. Although the known command-and-control interfaces generally require dexterity, good eyesight, mobility, and memory, the image-capturing system 100 of FIGS. 1-4 can be used by those who have one or more disabilities.

Serial No. 10/046,953

William Kress Bodin

Page 14 of 15

Because neither Zimmerman or Pryor suggest controlling a physical security action (e.g. unlocking a door), and because Starner does not suggest fixed mounting of the gesture sensor (e.g. Starner teaches that this type of fixed mounting is undesirable), there is no motivation or suggestion to combine Zimmerman-Pryor in view of Starner as proposed.

Applicant has described, and is amending the claims accordingly, a fixedly mounted panel behind which the motion sensors are configured. Applicant has described a number of systems on which a panel can be mounted, including point-of-sale systems, fuel pumps, entry/exit control panels, etc.

In view of the present amendment, Applicant requests allowance of claims 1 - 3, 10 - 12, 15, 19 - 21 and 23 - 24.

***Rejections of Claims 4 - 7, 13 - 14, 16, 22, and 25 over Zimmerman in view of Pryor in further view of Starner in further view of Pond***

In the Office Action, claims 4 - 7, 13 - 14, 16, 22, and 25 were rejected over the proposed combination of Zimmerman, Pryor, and Starner, in further view of US Patent Application Publication 20040030601 to Pond *et al.* ("Pond").

Pond was filed Aug. 6, 2003, which is after our filing date of January 15, 2002. Pond is a continuation-in-part of US application 09/675,618, which was filed on Sept. 29, 2000. Because Pond is a CIP of its parent case, it cannot be assumed that the entire disclosure of the later-filed published patent application enjoys priority to the parent's filing date. Further, the parent case is now patented, but was not published as a patent application, so it therefore is not available as prior art, either.

Zimmerman in view of Pryor in further view of Starner in further view of Pond also fails to suggest combination, and fails to teach all of the claimed elements, steps, and limitations as previously discussed in this reply.

Applicant therefore requests allowance of claims 4 - 7, 13 - 14, 16, 22, and 25.

***Rejections of Claims 8, 17, and 26 over Zimmerman in view of Pryor in further view of Starner in further view of Hiroaki in further view of Lawrence***

In the Office Action, claims 8, 17, and 26 were rejected under 35 U.S.C. §103(a) as being

Serial No. 10/046,953

William Kress Bodin

Page 15 of 15

unpatentable over Zimmerman in view of Pryor, in further view of Starner, in further view of US Patent 6,661,425 to Hiroaki (hereinafter "Hiroaki"), in further view of US Patent 3,580,058 to Lawrence (hereinafter "Lawrence"). Claim 8 depends from Claim 1, claim 17 depends from Claim 10, and Claim 26 depends from Claim 19.

Zimmerman in view of Pryor, in further view of Starner, in further view of Hiroaki in further view of Lawrence fails to suggest combination, and fails to teach all of the claimed elements, steps, and limitations as previously discussed in this reply. Applicant requests allowance of claims 8, 17, and 26.

***Rejections of Claims 9, 18, and 27 over Zimmerman in view of Pryor in further view of Starner in further view of Fleck***

In the Office Action, claims 9, 18, and 27 were rejected under 35 U.S.C. §103(a) as being unpatentable over Zimmerman in view of Pryor, in further view of Starner, in further view of US Patent 6,556,198 to Fleck, *et al.* (hereinafter "Fleck"). Claim 9 depends from Claim 1, claim 18 depends from Claim 10, and Claim 27 depends from Claim 19.

Zimmerman in view of Pryor, in further view of Starner, in further view of Fleck fails to suggest combination, and fails to teach all of the claimed elements, steps, and limitations as previously discussed in this reply. Applicant requests allowance of claims 9, 18, and 27.

Respectfully,

*/ Robert Frantz /*

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